

## Chairman Dingell at the Committee on Energy and Commerce hearing entitled "Combating Pretexting: H.R. 936, Prevention of Fraudulent Access to Phone Records Act"

Statement of Congressman John D. Dingell, Chairman  
Committee on Energy and Commerce

FULL COMMITTEE HEARING ENTITLED  
"COMBATING PRETEXTING: H.R. 936, PREVENTION OF  
FRAUDULENT ACCESS TO PHONE RECORDS ACT"  
MARCH 9, 2007

Good morning. Today we address a problem that faces every American who has a phone -- the security of the records that show who we call, when, how long we talk, and more. Events of the past year brought to this Committee's attention serious problems in the stewardship of personal information in telephone records. I thank our distinguished panel of witnesses for coming here to discuss these matters, and to give us their views on H.R. 936, the "Prevention of Fraudulent Access to Phone Records Act".

Certain major telecommunications companies allegedly turned over the detailed call records of millions of Americans to the National Security Agency (NSA). These phone customers were not informed that the NSA had their records. Apparently this may have been done without proper process. At least one company found it illegal and refused to comply.

We also learned about pretexting, which occurs when a person obtains phone records through fraudulent means. Apparently some of the largest companies in America, such as Hewlett-Packard Corporation, did not see any problems using this deceptive practice. One of our witnesses discovered 40 Web sites that offered to sell phone records to anyone online.

Last Congress, this Committee's Subcommittee on Oversight and Investigations held several hearings on pretexting abuses and scandals. I commend Reps. Stupak and Whitfield for their leadership in building a strong record on these matters. In a bipartisan manner, this Committee passed the same legislation that we are discussing today. I also commend Ranking Member Barton for his leadership, and willingness to work with us to produce sound legislation.

Unfortunately, after the Committee reported this bill last year, it mysteriously disappeared from the House floor schedule, and the House took no action before the 109th Congress adjourned.

So today we continue our effort to ensure that call record information held by phone companies remains secure. In that regard, I am pleased that we have before us representatives of the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC). The FCC is charged with ensuring that phone companies protect our calling records. And the FTC has the ability to crack down on fraudulent practices such as pretexting. This legislation will provide more specific authority to the FCC and FTC to take action.

We need to hear from the FCC on what they are doing to protect these records. Every telecommunications company under the Communications Act has a duty to protect the sensitive personal information of customers. Given the well-publicized breaches of customer privacy, we must address whether the statute adequately empowers the FCC to protect those records. I am aware that the FCC had expected to issue new rules governing phone record security by the end of last year. We encourage the FCC to issue those new rules as quickly as they are able.

Likewise, we need to hear from the FTC on whether or not they believe they have the authority, under existing law, to pursue those who engage in pretexting. The FTC has been aggressive in using Section 5 of the Federal Trade Commission Act, which prohibits unfair and deceptive acts and practices in interstate commerce, to bring enforcement actions against pretexters. But last year they testified that more specific prohibitions were needed against pretexting, soliciting, and selling customer phone records. The agency also seeks enhanced authority to impose civil penalties.

I also look forward to the testimony of the other distinguished members of our panel, the landline and wireless companies.

And last, but by no means least, we will hear important testimony from a victim of pretexting. This is not a faceless crime and it has consequences. Mr. Einhorn, thank you for coming before us. I am sorry for what has happened to you and your family, and I pledge my best efforts to making it less likely that this will happen to someone else. In the interests of fairness, we will leave the record open for 30 days in case Allied Capital wants to submit a statement.

This measure passed this Committee in a bipartisan fashion last Congress. Just as Mr. Barton did last Congress, I will work to address this issue in the very same bipartisan manner. And, as always, this Committee will conduct the oversight necessary to ensure that the American people are protected in the privacy of their phone records.

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